

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1089

FINAL READING

Introduced by Landis, 46

Read first time January 15, 2002

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to financial institutions; to amend sections
2 8-157, 8-345.02, 8-1507, 8-1516, 8-2104, and 81-1298,
3 Reissue Revised Statutes of Nebraska, and sections 8-101,
4 8-157.01, 8-183.05, 8-234, 8-602, and 8-910, Revised
5 Statutes Supplement, 2000; to eliminate certain branch
6 banking restrictions as prescribed; to change provisions
7 relating to bank holding companies; to harmonize
8 provisions; to repeal the original sections; and to
9 outright repeal section 8-1515, Reissue Revised Statutes
10 of Nebraska.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-101, Revised Statutes Supplement,
2 2000, is amended to read:

3 8-101. For purposes of the Nebraska Banking Act, unless
4 the context otherwise requires:

5 (1) Bank subsidiary corporation means a corporation which
6 has a bank as a shareholder and which is organized for purposes of
7 engaging in activities which are part of the business of banking or
8 incidental to such business except for the receipt of deposits. A
9 bank subsidiary corporation is not to be considered a branch of its
10 bank shareholder;

11 (2) Capital or capital stock means capital stock;

12 (3) Department means the Department of Banking and
13 Finance;

14 (4) Director means the Director of Banking and Finance;

15 (5) Bank or banking corporation means any incorporated
16 banking institution which was incorporated under the laws of this
17 state as they existed prior to May 9, 1933, and any corporation
18 duly organized under the laws of this state for the purpose of
19 conducting a bank within this state under the act. Bank means any
20 such banking institution which is, in addition to the exercise of
21 other powers, following the practice of repaying deposits upon
22 check, draft, or order and of making loans;

23 (6) Order includes orders transmitted by electronic
24 transmission;

25 (7) Automatic teller machine means a machine established
26 and located off the premises of a financial institution which has a
27 main chartered office or approved branch ~~office~~ located in the
28 State of Nebraska, whether attended or unattended, which utilizes

1 electronic, sound, or mechanical signals or impulses, or any
2 combination thereof, and from which electronic funds transfers may
3 be initiated. An unattended automatic teller machine shall not be
4 deemed to be ~~an office~~ a branch operated by a financial
5 institution;

6 (8) Automatic teller machine surcharge means a fee that
7 an operator of an automatic teller machine imposes upon a consumer
8 for an electronic funds transfer, if such operator is not the
9 financial institution that holds an account of such consumer from
10 which the electronic funds transfer is to be made;

11 (9) Data processing center means a facility, wherever
12 located, at which electronic impulses or other indicia of a
13 transaction originating at an automatic teller machine or
14 point-of-sale terminal are received and either authorized or routed
15 to a switch or other data processing center in order to enable the
16 automatic teller machine or point-of-sale terminal to perform any
17 function for which it is designed;

18 (10) Point-of-sale terminal means an information
19 processing terminal which utilizes electronic, sound, or mechanical
20 signals or impulses, or any combination thereof, which are
21 transmitted to a financial institution or which are recorded for
22 later transmission to effectuate electronic funds transfer
23 transactions for the purchase or payment of goods and services and
24 which are initiated by an access device in conjunction with a
25 personal identification number. A point-of-sale terminal is not ~~an~~
26 ~~office~~ a branch operated by a financial institution. Any terminal
27 owned or operated by a seller of goods and services shall be
28 connected directly or indirectly to an acquiring financial

1 institution;

2 (11) Making loans includes advances or credits that are
3 initiated by means of credit card or other transaction card.
4 Transaction card and other transactions, including transactions
5 made pursuant to prior agreements, may be brought about and
6 transmitted by means of an electronic impulse. Such loan
7 transactions including transactions made pursuant to prior
8 agreements shall be subject to sections 8-815 to 8-829 and shall be
9 deemed loans made at the place of business of the financial
10 institution;

11 (12) Financial institution means a bank, savings bank,
12 building and loan association, savings and loan association,
13 industrial loan and investment company, credit union, or trust
14 company; ~~or other institution offering automatic teller machines;~~

15 (13) Financial institution employees includes parent
16 holding company and affiliate employees;

17 (14) Switch means any facility where electronic impulses
18 or other indicia of a transaction originating at an automatic
19 teller machine or point-of-sale terminal are received and are
20 routed and transmitted to a financial institution, data processing
21 center, or other switch, wherever located. A switch may also be a
22 data processing center;

23 (15) Impulse means an electronic, sound, or mechanical
24 impulse, or any combination thereof;

25 (16) Insolvent means a condition in which (a) the actual
26 cash market value of the assets of a bank is insufficient to pay
27 its liabilities to its depositors, (b) a bank is unable to meet the
28 demands of its creditors in the usual and customary manner, (c) a

1 bank, after demand in writing by the director, fails to make good
2 any deficiency in its reserves as required by law, or (d) the
3 stockholders of a bank, after written demand by the director, fail
4 to make good an impairment of its capital or surplus; and

5 (17) Foreign state agency means any duly constituted
6 regulatory or supervisory agency which has authority over financial
7 institutions and which is created under the laws of any other
8 state, any territory of the United States, Puerto Rico, Guam,
9 American Samoa, the Trust Territory of the Pacific Islands, or the
10 Virgin Islands or which is operating under the code of law for the
11 District of Columbia.

12 Sec. 2. Section 8-157, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 8-157. (1) Except as otherwise provided in ~~subsections~~
15 ~~(2) through (11) of~~ this section and ~~sections 8-122.01 and~~ section
16 8-2104, the general business of every bank shall be transacted at
17 the place of business specified in its charter.

18 (2) (a) (i) Except as provided in subdivision (2) (a) (ii) of
19 this section, with the approval of the director, any bank located
20 in this state may establish and maintain in this state an unlimited
21 number of branches at which all banking transactions allowed by law
22 may be made.

23 (ii) Any bank that owns or controls more than twenty-two
24 percent of the total deposits in Nebraska, as described in
25 subdivision (2) (c) of section 8-910 and computed in accordance with
26 subsection (3) of section 8-910, or any bank that is a subsidiary
27 of a bank holding company that owns or controls more than
28 twenty-two percent of the total deposits in Nebraska, as described

1 in subdivision (2)(c) of section 8-910 and computed in accordance
2 with subsection (3) of section 8-910, shall not establish and
3 maintain an unlimited number of branches as provided in subdivision
4 (2)(a)(i) of this section. With the approval of the director, a
5 bank as described in this subdivision may establish and maintain in
6 the county in which such bank is located an unlimited number of
7 branches at which all banking transactions allowed by law may be
8 made, except that if such bank is located in a Class I or Class III
9 county, such bank may establish and maintain in Class I and Class
10 III counties an unlimited number of branches at which all banking
11 transactions allowed by law may be made.

12 (iii) Any bank which establishes and maintains branches
13 pursuant to subdivision (2)(a)(i) of this section and which
14 subsequently becomes a bank as described in subdivision (2)(a)(ii)
15 of this section shall not be subject to the limitations as to
16 location of branches contained in subdivision (2)(a)(ii) of this
17 section with regard to any such established branch, and shall
18 continue to be entitled to maintain any such established branch as
19 if such bank had not become a bank as described in subdivision
20 (2)(a)(ii) of this section.

21 (2)(a) With the approval of the director, any bank may
22 maintain an attached branch bank if such branch bank is physically
23 connected by a pneumatic tube or tubes or a walkway, a tunnel, or
24 any other electronic, mechanical, or structural connection or
25 attachment for the public use of the bank and is within two hundred
26 feet of the building containing the premises specified as its place
27 of business in its charter or any adjacent connected building
28 housing a continuation of the operations of the bank's main office.

1 ~~(b)~~ With the approval of the director, any bank located
2 in a Class I or Class III county may establish and maintain in
3 Class I and Class III counties an unlimited number of detached
4 branch banks at which all banking transactions allowed by law may
5 be made.

6 ~~(c)(i)~~ With the approval of the director, any bank
7 located in a Class II county may establish and maintain not more
8 than the number of detached branch banks permitted under
9 subdivision ~~(2)(c)(ii)~~ of this section at which all banking
10 transactions allowed by law may be made.

11 ~~(ii)(A)~~ If the bank is located within the corporate
12 limits of a city, such bank may establish and maintain not more
13 than twelve such detached branch banks and such detached branch
14 banks shall be within the corporate limits of the city.

15 ~~(B)~~ If the bank is located within the zoning jurisdiction
16 of a city of the primary class or is located within an
17 unincorporated city or unincorporated area in a county which
18 contains a city of the primary class, such bank may establish and
19 maintain not more than nine such detached branch banks and such
20 detached branch banks may also be within the corporate limits of
21 such city if the bank was in existence at such location prior to
22 April 4, 1996.

23 ~~(d)~~ With the approval of the director, any bank located
24 in a Class IV county may establish and maintain not more than six
25 detached branch banks at which all banking transactions allowed by
26 law may be made. Such detached branch banks shall be within the
27 corporate limits of the city in which such bank is located.

28 ~~(e)~~ Any detached branch bank established and maintained

1 by a bank pursuant to an acquisition or merger under sections
2 ~~8-1506 to 8-1510~~ or an acquisition under section ~~8-1515~~ shall not
3 be subject to the limitations as to location and number of
4 locations of detached branch banks contained in subdivisions ~~(b)~~,
5 ~~(c)~~, and ~~(d)~~ of this subsection.

6 ~~(f)~~

7 (b) With the approval of the director, any bank or any
8 detached branch bank which was chartered as a financial institution
9 prior to being converted to a detached branch bank may establish
10 and maintain a mobile branch bank at which all banking transactions
11 allowed by law may be made. Such mobile branch bank may consist of
12 one or more vehicles which may transact business only within the
13 corporate limits of the city county in which such bank or detached
14 such branch bank which was chartered as a financial institution
15 prior to being converted to a detached branch bank is located,
16 except that ~~(i)~~ a mobile branch bank of a bank or detached branch
17 bank which was chartered as a financial institution prior to being
18 converted to a detached branch bank located in a Class I or Class
19 III county, may transact business anywhere in Class I and III
20 counties and ~~(ii)~~ a mobile branch bank of a bank or detached branch
21 bank which was chartered as a financial institution prior to being
22 converted to a detached branch bank located in a Class II county
23 and within the zoning jurisdiction of a city of the primary class
24 or within an unincorporated city or unincorporated area in a county
25 which contains a city of the primary class may transact business
26 within the corporate limits of such city if the bank or detached
27 branch bank which was chartered as a financial institution prior to
28 being converted to a detached branch bank was in existence at such

1 location prior to April 4, 1996 and within counties in this state
2 which adjoin such county.

3 ~~(g)~~ (c) For purposes of this ~~section~~ subsection:

4 (i) Class I county means a county in this state with a
5 population of three hundred thousand or more as determined by the
6 most recent federal decennial census;

7 (ii) Class II county means a county in this state with a
8 population of at least two hundred thousand and less than three
9 hundred thousand as determined by the most recent federal decennial
10 census;

11 (iii) Class III county means a county in this state with
12 a population of at least one hundred thousand and less than two
13 hundred thousand as determined by the most recent federal decennial
14 census; and

15 (iv) Class IV county means a county in this state with a
16 population of less than one hundred thousand as determined by the
17 most recent federal decennial census.

18 (3) With the approval of the director, a bank may
19 establish and maintain branches acquired ~~acquire another financial~~
20 ~~institution in Nebraska as the result of a purchase or merger~~
21 pursuant to section 8-1506 or 8-1516, and all banking transactions
22 allowed by law may be made at such branches. ~~Any detached branch~~
23 ~~banks established and maintained by a bank pursuant to a purchase~~
24 ~~or merger under section 8-1516 shall not be subject to the~~
25 ~~limitations as to location and number of locations of detached~~
26 ~~branch banks contained in subdivisions (2)(b), (2)(c), and (2)(d)~~
27 ~~of this section.~~ If the acquired institution is in a Class I
28 county or in a Class III county, following a purchase or merger

1 pursuant to this subsection the acquiring bank may establish and
2 maintain a mobile branch bank and detached branches to the same
3 extent that the acquired institution could have established and
4 maintained a mobile branch bank and detached branches as provided
5 in subdivisions (2)(b) and (2)(f) of this section or section
6 8-345.02 if the purchase or merger had not occurred. If the
7 acquired institution is in a Class II county and it has not
8 established a mobile branch bank and twelve or nine detached
9 branches as permitted by subdivision (2)(c)(ii)(A) or (2)(c)(ii)(B)
10 of this section, respectively, and subdivision (2)(f) of this
11 section or section 8-345.02, following a purchase or merger
12 pursuant to this subsection the acquiring bank may establish and
13 maintain a mobile branch bank and detached branch banks to the same
14 extent that the acquired institution could have established and
15 maintained a mobile branch bank and detached branches as provided
16 in subdivisions (2)(c) and (2)(f) of this section or section
17 8-345.02 if the purchase or merger had not occurred. If the
18 acquired institution is in a Class IV county and it has not
19 established a mobile branch bank and six detached branches as
20 permitted by subdivisions (2)(d) and (2)(f) of this section or
21 section 8-345.02, following a purchase or merger pursuant to this
22 subsection the acquiring bank may establish and maintain a mobile
23 branch bank and detached branches to the same extent that the
24 acquired institution could have established and maintained a mobile
25 branch bank and detached branches as provided in subdivisions
26 (2)(d) and (2)(f) of this section or section 8-345.02 if the
27 purchase or merger had not occurred. Regardless of the date of
28 acquisition of such financial institution or whether the acquired

1 financial institution was state-chartered or federally chartered,
2 the acquired institution shall be deemed for purposes of this
3 subsection to have been permitted to establish and maintain a
4 mobile branch bank and detached branches solely to the extent
5 permitted to state-chartered financial institutions under
6 subsection (2) of this section or under section 8-345.02 at the
7 time of establishment of a new mobile branch bank or detached
8 branch. For purposes of this subsection, financial institution or
9 institution means a bank, savings bank, building and loan
10 association, or savings and loan association organized under the
11 laws of this state or organized under the laws of the United States
12 to do business in this state.

13 (4) With the approval of the director, a bank may acquire
14 the assets and assume the deposits of a detached branch of another
15 financial institution in Nebraska if:

16 (a) The acquired detached branch has been established,
17 maintained, and operated for more than eighteen months; and

18 (b) The the acquired detached branch is converted to a
19 detached branch bank of the acquiring bank. All banking
20 transactions allowed by law may be made at a detached branch
21 acquired pursuant to this subsection. Such detached branches shall
22 not be subject to the limitations as to location and number of
23 locations of detached branch banks contained in subdivisions
24 (2)(b), (2)(c), and (2)(d) of this section. The restrictions
25 contained in this subsection shall not limit the authority of a
26 bank to acquire another bank and to continue to operate the mobile
27 branch bank and all of the detached branch banks of the acquired
28 bank as a mobile branch bank and detached branch banks of the

1 acquiring bank.

2 For purposes of this subsection, financial institution
3 means a bank, savings bank, building and loan association, or
4 savings and loan association organized under the laws of this state
5 or organized under the laws of the United States to do business in
6 this state.

7 ~~(5) With the approval of the director, a bank may acquire~~
8 ~~the assets and assume the deposits of a detached branch bank of~~
9 ~~another bank in Nebraska or acquire the assets and assume the~~
10 ~~deposits of an eligible savings association acquired by another~~
11 ~~bank in Nebraska pursuant to section 8-1515 if:~~

12 ~~(a) The acquired detached branch bank or eligible savings~~
13 ~~association is converted to a detached branch bank of the acquiring~~
14 ~~bank, and~~

15 ~~(b) The detached branch bank or the eligible savings~~
16 ~~association to be acquired was operated, established, and~~
17 ~~maintained as an eligible savings association at its existing~~
18 ~~location prior to August 9, 1989, and was maintained at such~~
19 ~~location on such date.~~

20 All banking transactions allowed by law may be made at a
21 detached branch bank acquired pursuant to this subsection. Such
22 detached branch banks shall not be subject to the limitations as to
23 location and number of locations of detached branch banks contained
24 in subdivisions (2)(b), (2)(c), and (2)(d) of this section. The
25 restrictions contained in this subsection shall not limit the
26 authority of a bank to acquire another bank and to continue to
27 operate the mobile branch bank and all of the detached branch banks
28 of the acquired bank as a mobile branch bank and detached branch

1 banks of the acquiring bank. The detached branch bank or eligible
2 savings association acquired as a detached branch bank under this
3 subsection and section 8-1515 shall continue to be entitled to
4 establish and maintain such branches as it could have established
5 and maintained if such acquisition had not occurred. Regardless of
6 the date of acquisition of such detached branch bank or eligible
7 savings association or whether the acquired detached branch bank or
8 eligible savings association was state-chartered or federally
9 chartered, the acquired detached branch bank or eligible savings
10 association shall be deemed for purposes of this subsection to have
11 been permitted to establish and maintain a mobile branch bank and
12 detached branches solely to the extent permitted to state-chartered
13 financial institutions under subsection (2) of this section or
14 under section 8-345.02 at the time of establishment of a new mobile
15 branch bank or detached branch.

16 ~~(6)~~ With the approval of the director, a bank may acquire
17 a branch of a savings association which is a successor to an
18 eligible savings association if such acquisition occurs within
19 ninety days of the date the successor savings association acquired
20 the eligible savings association and the branch is converted to a
21 detached branch bank of the acquiring bank. The detached branch of
22 an eligible savings association acquired as a detached branch bank
23 under this subsection and section 8-1515 shall continue to be
24 entitled to establish and maintain a mobile branch bank and such
25 branches as it could have established and maintained if such
26 acquisition had not occurred. Regardless of the date of
27 acquisition of such detached branch of an eligible savings
28 association or whether the acquired detached branch of an eligible

1 savings association was state-chartered or federally chartered, the
2 acquired detached branch of an eligible savings association shall
3 be deemed for purposes of this subsection to have been permitted to
4 establish and maintain a mobile branch bank and detached branches
5 solely to the extent permitted to state-chartered financial
6 institutions under section 8-345.02 at the time of establishment of
7 a new mobile branch bank or detached branch.

8 (7) With the approval of the director and subject to the
9 limitations specified in this subsection, a single bank may
10 establish one detached branch bank within the corporate limits of
11 any municipality in which a financial institution has closed and
12 ceased doing business within the preceding two years if no other
13 financial institution operates an office within such municipality.
14 If thirty days or less have elapsed since the financial institution
15 ceased operation, the director shall only approve the establishment
16 of a detached branch bank by a bank which has its place of
17 business, as specified in its charter, in the same county as or in
18 a contiguous county to the county in which such municipality is
19 located. If more than thirty days have elapsed since the financial
20 institution ceased operation, the director may approve the
21 establishment of a detached branch bank by any bank located within
22 Nebraska.

23 For purposes of this subsection:

24 (a) An unattended automatic teller machine shall not be
25 deemed to be an office operated by a financial institution, and

26 (b) Financial institution means a bank, savings bank,
27 building and loan association, savings and loan association,
28 industrial loan and investment company, credit union, trust

1 ~~company, or other institution offering automatic teller machine~~
2 ~~transactions.~~

3 ~~(8)~~ (5) The name given to any ~~detached~~ branch ~~bank~~
4 established and maintained pursuant to this section shall not be
5 substantially similar to the name of any existing bank or branch
6 ~~bank~~ which is unaffiliated with the newly created ~~detached~~ branch
7 ~~bank~~ and is located in the same ~~municipality~~ city, village, or
8 county. The name of such newly created ~~detached~~ branch ~~bank~~ shall
9 be approved by the director.

10 ~~(9)~~

11 (6) A bank which has a main chartered office or an
12 approved branch ~~bank~~ located in the State of Nebraska may, through
13 any of its executive officers, including executive officers
14 licensed as such pursuant to section 8-139, or designated agents,
15 conduct a loan closing at a location other than the place of
16 business specified in the bank's charter or any ~~detached~~ branch
17 thereof. ~~The director may adopt and promulgate rules and~~
18 ~~regulations to implement the provisions of this section.~~

19 ~~(10)~~ (7) A bank which has a main chartered office or
20 approved branch ~~office~~ located in the State of Nebraska may, upon
21 notification to the department, establish savings account programs
22 at any elementary or secondary school, whether public or private,
23 ~~located~~ that has students who reside in the same city or village as
24 the main chartered office or branch ~~office~~ of the bank, or, if the
25 main office of the bank is located in an unincorporated area of a
26 county, at any school ~~located~~ that has students who reside in the
27 same unincorporated area. The savings account programs shall be
28 limited to the establishment of individual student accounts and the

1 receipt of deposits for such accounts.

2 ~~(11)~~ (8) Upon receiving an application for a ~~detached~~
3 branch ~~bank~~ to be established pursuant to subdivision ~~(2)(b)~~,
4 ~~(2)(c)~~, or ~~(2)(d)~~ (2)(a) of this section, to establish a mobile
5 branch pursuant to subdivision (2)(b) of this section, to acquire a
6 branch of another financial institution pursuant to subsection (4)
7 of this section, or to move the location of an established branch,
8 the director shall hold a public hearing on the matter if he or she
9 determines, in his or her discretion, that the condition of the
10 applicant bank warrants a hearing. If the director determines that
11 the condition of the bank does not warrant a hearing, the director
12 shall (a) publish a notice of the filing of the application in a
13 newspaper of general circulation in the county where the proposed
14 branch or mobile branch would be located, the expense of which
15 shall be paid by the applicant bank, and (b) give notice of such
16 application ~~for a detached branch bank~~ by certified mail to all
17 financial institutions located within the county where the proposed
18 ~~detached branch bank~~ or mobile branch would be located, and to such
19 other interested parties as the director may determine. If the
20 director receives any substantive objection to the proposed
21 ~~detached branch bank~~ or mobile branch within fifteen days after
22 publication or mailing of such notice, he or she shall hold a
23 hearing on the application. Notice of a hearing held pursuant to
24 this subsection shall be published for two consecutive weeks in a
25 newspaper of general circulation in the county where the proposed
26 branch or mobile branch would be located. The date for hearing the
27 application shall not be more than ninety days after the filing of
28 the application and not less than thirty days after the last

1 publication of notice of hearing.

2 Sec. 3. Section 8-157.01, Revised Statutes Supplement,
3 2000, is amended to read:

4 8-157.01. (1) Upon prior written notice to the director,
5 any financial institution which has a main chartered office or
6 approved branch ~~office~~ located in the State of Nebraska may
7 establish and maintain any number of automatic teller machines at
8 which all banking transactions, defined as receiving deposits of
9 every kind and nature and crediting such to customer accounts,
10 cashing checks and cash withdrawals, transfer of funds from
11 checking accounts to savings accounts, transfer of funds from
12 savings accounts to checking accounts, transfer of funds from
13 either checking accounts and savings accounts to accounts of other
14 customers, payment transfers from customer accounts into accounts
15 maintained by other customers of the financial institution or the
16 financial institution, including preauthorized draft authority,
17 preauthorized loans, and credit transactions, receiving payments
18 payable at the financial institution or otherwise, and account
19 balance inquiry, may be conducted. Any other transaction
20 incidental to the business of the financial institution or which
21 will provide a benefit to the financial institution's customers or
22 the general public may be conducted at an automatic teller machine
23 upon thirty days' prior written notice to the director if the
24 director does not object to the proposed other transaction within
25 the thirty-day notice period. Neither such automatic teller
26 machines nor the transactions conducted thereat shall be construed
27 as the establishment of a branch ~~bank~~ or as branch banking. Such
28 automatic teller machines shall be made available on a

1 nondiscriminating basis for use by customers of any financial
2 institution which has a main chartered office or approved branch
3 ~~office~~ located in the State of Nebraska which becomes a user
4 financial institution. It shall not be deemed discrimination if an
5 automatic teller machine does not offer the same transaction
6 services as other automatic teller machines or if there are no fees
7 charged between affiliate financial institutions for the use of
8 automatic teller machines.

9 (2) Any financial institution may become a user financial
10 institution by agreeing to pay the establishing financial
11 institution its automatic teller machine usage fee. Such agreement
12 shall be implied by the use of such automatic teller machines.
13 Nothing in this subsection shall prohibit a user financial
14 institution from agreeing to responsibilities and benefits which
15 might be contained in a standardized agreement. The establishing
16 financial institution or its designated data processing center
17 shall be responsible for transmitting transactions originating from
18 its automatic teller machine to a switch, but nothing contained in
19 this section shall be construed to require routing of all
20 transactions to a switch. All automatic teller machines must be
21 made available on a nondiscriminating basis, for use by customers
22 of any financial institution which has a main chartered office or
23 approved branch ~~office~~ located in the State of Nebraska which
24 becomes a user financial institution, through methods, fees, and
25 processes that the establishing financial institution has provided
26 for switching transactions. The director, upon notice and after a
27 hearing, may terminate or suspend the use of any automatic teller
28 machine if he or she determines that it is not available on a

1 nondiscriminating basis for use by customers of any financial
2 institution which has a main chartered office or approved branch
3 ~~office~~ located in the State of Nebraska which becomes a user
4 financial institution or that transactions originated by customers
5 of user financial institutions are not being routed to a switch or
6 other data processing centers. Nothing in this section may be
7 construed to prohibit nonbank employees from assisting in
8 transactions originated at the automatic teller machines, and such
9 assistance shall not be deemed to be engaging in the business of
10 banking. Such nonbank employees may be trained in the use of the
11 automatic teller machines by financial institution employees.

12 (3) An establishing financial institution shall not be
13 deemed to make an automatic teller machine available on a
14 nondiscriminating basis if, through personnel services offered,
15 advertising on or off the automatic teller ~~machines~~ machine's
16 premises, or otherwise, it discriminates in the use of the
17 automatic teller machine against any user financial institution
18 which has a main chartered office or approved branch ~~office~~ located
19 in the State of Nebraska.

20 (4) (a) On and after August 1, 2000, any consumer
21 initiating an electronic funds transfer at an automatic teller
22 machine for which an automatic teller machine surcharge will be
23 imposed shall receive notice in accordance with the provisions of
24 15 U.S.C. 1693b(d) (3) (A) and (B), as such section existed on the
25 effective date of this act. Such notice shall (i) be posted in a
26 prominent and conspicuous location on or at the automatic teller
27 machine at which the electronic funds transfer is initiated by the
28 consumer and (ii) appear on the screen of the automatic teller

1 machine or appear on a paper notice issued from such machine after
2 the transaction is initiated and before the consumer is irrevocably
3 committed to completing the transaction.

4 (b) Subdivision (a)(ii) of this subsection shall not
5 apply until January 1, 2005, to any automatic teller machine that
6 lacks the technical capability to disclose the notice on the screen
7 or to issue a paper notice after the transaction is initiated and
8 before the consumer is irrevocably committed to completing the
9 transaction.

10 (5) A point-of-sale terminal may be established at any
11 point within this state. A financial institution may contract with
12 a seller of goods and services or any other third party for the
13 operation of point-of-sale terminals. A point-of-sale terminal
14 shall be made available on a nondiscriminating basis for use by
15 customers of any financial institution which has a main chartered
16 office or approved branch ~~office~~ located in the State of Nebraska
17 which becomes a user financial institution. Nothing in this
18 subsection shall prohibit payment of fees to a financial
19 institution which issues an access device used to initiate
20 electronic funds transfer transactions at a point-of-sale terminal.

21 (6) A seller of goods and services or any other third
22 party on whose premises one or more point-of-sale terminals are
23 established shall not be, solely by virtue of such establishment, a
24 financial institution and shall not be subject to the laws
25 governing, or other requirements imposed on, financial
26 institutions, except for the requirement that it faithfully perform
27 its obligations in connection with any transaction originated at
28 any point-of-sale terminal on its premises. The acquiring

1 financial institution shall be responsible for compliance with all
2 applicable standards, rules, and regulations governing
3 point-of-sale transactions.

4 (7) Any financial institution, upon a request of the
5 director, shall file with the director a current listing of all
6 point-of-sale terminals established by the financial institution
7 within this state. For purposes of this subsection, point-of-sale
8 terminal shall include a group of one or more of such terminals
9 established at a single business location. Such listing shall
10 contain any reasonable descriptive information pertaining to the
11 point-of-sale terminal as required by the director. Neither the
12 establishment of such point-of-sale terminal nor any transactions
13 conducted thereat shall be construed as the establishment of a
14 branch ~~bank~~ or as branch banking. Following establishment of a
15 point-of-sale terminal, the director, upon notice and after a
16 hearing, may terminate or suspend the use of such point-of-sale
17 terminal if he or she determines that it is not made available on a
18 nondiscriminating basis for use by customers of any financial
19 institution which has a main chartered office or approved branch
20 ~~office~~ located in the State of Nebraska which becomes a user
21 financial institution, that the necessary information is not on
22 file with the director, or that transactions originated by
23 customers of user financial institutions are not being routed to a
24 switch or other data processing center. Nothing in this section
25 shall be construed to prohibit nonbank employees from assisting in
26 transactions originated at the point-of-sale terminals, and such
27 assistance shall not be deemed to be engaging in the business of
28 banking.

- 1 (8) Transactions at point-of-sale terminals may include:
- 2 (a) Check guarantees;
- 3 (b) Account balance inquiries;
- 4 (c) Transfers of funds from a customer's account for
- 5 payment to a seller's account for goods and services on whose
- 6 premises the point-of-sale terminal is located in payment for the
- 7 goods and services;
- 8 (d) Cash withdrawals by a customer from the customer's
- 9 account or accounts;
- 10 (e) Transfers between accounts of the same customers at
- 11 the same financial institution; and
- 12 (f) Such other transactions as the director, upon
- 13 application, notice, and hearing, may approve.
- 14 (9) (a) Automatic teller machines may be established and
- 15 maintained by a financial institution which has a main chartered
- 16 office or approved branch ~~office~~ located in the State of Nebraska,
- 17 by a group of two or more of such financial institutions, or by a
- 18 combination of such financial institution or financial institutions
- 19 and a third party.
- 20 (b) Point-of-sale terminals may be established and
- 21 maintained by a financial institution which has a main chartered
- 22 office or approved branch located in the State of Nebraska, by a
- 23 group of two or more of such financial institutions, or by a
- 24 combination of a such financial ~~institution or financial~~
- 25 institutions and a third party. No one, through personnel services
- 26 offered, advertising on or off the point-of-sale terminal premises,
- 27 or otherwise, may discriminate in the use of the point-of-sale
- 28 terminal against any other user financial institution.

1 (10) All financial institutions shall be given an equal
2 opportunity for the use of and access to a switch, and no
3 discrimination shall exist or preferential treatment be given in
4 either the operation of such switch or the charges for use thereof.
5 The operation of such switch shall be with the approval of the
6 director. Approval of such switch shall be given by the director
7 when he or she determines that its design and operation are such as
8 to provide access thereto and use thereof by any financial
9 institution without discrimination as to access or cost of its use.
10 Any switch established in Nebraska and approved by the director
11 prior to January 1, 1993, shall be deemed to be approved for
12 purposes of this section.

13 (11) Use of an automatic teller machine or a
14 point-of-sale terminal through access to a switch and use of any
15 switch shall be made available on a nondiscriminating basis to any
16 financial institution. A financial institution shall only be
17 permitted use of the switch if the financial institution conforms
18 to reasonable technical operating standards which have been
19 established by the switch.

20 (12) To assure maximum safety and security against
21 malfunction, fraud, theft, and other accidents or abuses and to
22 assure that all such access devices will have the capability of
23 activating all automatic teller machines and point-of-sale
24 terminals established in this state, no automatic teller machine or
25 point-of-sale terminal shall accept an access device which does not
26 conform to such specifications as are generally accepted. No
27 automatic teller machine or point-of-sale terminal shall be
28 established or operated which does not accept an access device

1 which conforms with such specifications.

2 An automatic teller machine shall bear a logo type or
3 other identification symbol designed to advise customers that the
4 automatic teller machine may be activated by any access device
5 which complies with the generally accepted specifications. A
6 point-of-sale terminal shall either bear or the premises on which
7 the point-of-sale terminal is established shall contain a visible
8 logo type or other identification symbol designed to advise
9 customers that the point-of-sale terminal may be activated by any
10 access device which complies with the generally accepted
11 specifications. An automatic teller machine or point-of-sale
12 terminal may also bear, at the option of the establishing or
13 acquiring financial institution, any of the following:

14 (a) The names of all individual financial institutions
15 using such automatic teller machines or point-of-sale terminals in
16 alphabetical order, except that the establishing or acquiring
17 financial institution may be listed first, and in a uniform
18 typeface, size, and color; or

19 (b) The logo type or symbol of any association,
20 corporation, or other entity or organization formed by one or more
21 of the financial institutions using such automatic teller machines
22 or point-of-sale terminals.

23 (13) If the director, upon notice and hearing, determines
24 at any time that the design or operation of a switch or provision
25 for use thereof does discriminate against any financial institution
26 in providing access thereto and use thereof either through access
27 thereto or by virtue of the cost of its use, he or she may revoke
28 his or her approval of such switch operation and immediately order

1 the discontinuance of the operation of such switch.

2 (14) If it is determined by the director, after notice
3 and hearing, that discrimination against any financial institution
4 has taken place, that one financial institution has been preferred
5 over another, or that any financial institution or person has not
6 complied with any of the provisions of this section, he or she
7 shall immediately issue a cease and desist order or an order for
8 compliance within ten days after the date of the order, and upon
9 noncompliance with such order, the offending financial institution
10 shall be subject to sections 8-1,135 to 8-1,138 and to having the
11 privileges granted in this section revoked.

12 (15) For purposes of this section:

13 (a) Access means the ability to utilize an automatic
14 teller machine or a point-of-sale terminal to conduct permitted
15 banking transactions or purchase goods and services electronically;

16 (b) Access device means a code, a transaction card, or
17 any other means of access to a customer's account, or any
18 combination thereof, that may be used by a customer for the purpose
19 of initiating an electronic funds transfer at an automatic teller
20 machine or a point-of-sale terminal;

21 (c) Account means a checking account, a savings account,
22 a share account, or any other customer asset account held by a
23 financial institution. Such an account may also include a line of
24 credit which a financial institution has agreed to extend to its
25 customer;

26 (d) Acquiring financial institution means any financial
27 institution establishing a point-of-sale terminal;

28 (e) Affiliate financial institution means any financial

1 institution which is a subsidiary of the same bank holding company;

2 (f) Electronic funds transfer means any transfer of
3 funds, other than a transaction originated by check, draft, or
4 similar paper instrument, that is initiated through a point-of-sale
5 terminal, an automatic teller machine, or a personal terminal for
6 the purpose of ordering, instructing, or authorizing a financial
7 institution to debit or credit an account;

8 (g) Establishing financial institution means any
9 financial institution establishing an automatic teller machine
10 which has a main chartered office or approved branch ~~office~~ located
11 in the State of Nebraska;

12 (h) Financial institution means a state-chartered or
13 federally chartered bank, savings bank, building and loan
14 association, savings and loan association, industrial loan and
15 investment company, or credit union;

16 (i) Personal identification number means a combination of
17 numerals or letters selected for a customer of a financial
18 institution, a merchant, or any other third party which is used in
19 conjunction with an access device to initiate an electronic funds
20 transfer transaction;

21 (j) Personal terminal means a personal computer and
22 telephone, wherever located, operated by a customer of a financial
23 institution for the purpose of initiating a transaction affecting
24 an account of the customer; and

25 (k) User financial institution means any financial
26 institution which desires to avail itself of and provide its
27 customers with automatic teller machine or point-of-sale terminal
28 services.

1 (16) Nothing in this section prohibits ordinary
2 clearinghouse transactions between financial institutions.

3 (17) Nothing in this section requires any federally
4 chartered establishing financial institution to obtain the approval
5 of the director for the establishment of any automatic teller
6 machine.

7 (18) Nothing in this section shall prevent any financial
8 institution which has a main chartered office or an approved branch
9 ~~office~~ located in the State of Nebraska from participating in a
10 national automatic teller machine program to allow its customers to
11 use automatic teller machines located outside of the State of
12 Nebraska which are established by out-of-state financial
13 institutions or to allow customers of out-of-state financial
14 institutions to use its automatic teller machines located in the
15 State of Nebraska. Such participation and any automatic teller
16 machine usage fees charged or received pursuant to the national
17 automatic teller machine program shall not be considered for
18 purposes of determining if an automatic teller machine located in
19 the State of Nebraska has been made available on a
20 nondiscriminating basis for use by customers of any financial
21 institution which has a main chartered office or approved branch
22 ~~office~~ located in the State of Nebraska which becomes a user
23 financial institution.

24 Sec. 4. Section 8-183.05, Revised Statutes Supplement,
25 2000, is amended to read:

26 8-183.05. (1) Upon the issuance of a state bank charter
27 to a converting savings association, the corporate existence of the
28 converting association shall not terminate, but such bank shall be

1 a continuation of the entity so converted and all property of the
2 converted savings association, including its rights, titles, and
3 interests in and to all property of whatever kind, whether real,
4 personal, or mixed, things in action, and every right, privilege,
5 interest, and asset of any conceivable value or benefit then
6 existing, or pertaining to it, or which would inure to it,
7 immediately, by operation of law and without any conveyance or
8 transfer and without any further act or deed, shall vest in and
9 remain the property of such converted savings association, and the
10 same shall have, hold, and enjoy the same in its own right as fully
11 and to the same extent as the same was possessed, held, and enjoyed
12 by the converting savings association.

13 (2) Upon issuance of the charter, the new state bank
14 shall continue to have and succeed to all the rights, obligations,
15 and relations of the converting savings association.

16 (3) All pending actions and other judicial proceedings to
17 which the converting savings association is a party shall not be
18 abated or discontinued by reason of such conversion but may be
19 prosecuted to final judgment, order, or decree in the same manner
20 as if such conversion had not been made, and such converted savings
21 association may continue the actions in its new corporate name.
22 Any judgment, order, or decree may be rendered for or against the
23 converting savings association theretofore involved in the
24 proceedings.

25 (4) Nothing in this section shall be construed to
26 authorize a converted savings association to establish ~~detached~~
27 ~~branch banks~~ branches except as permitted by section 8-157 and the
28 Interstate Branching by Merger Act of 1997. This subsection shall

1 not be construed to require divestiture of any ~~branch offices~~
2 branches of a savings association in existence at the time of the
3 conversion to a state bank charter.

4 Sec. 5. Section 8-234, Revised Statutes Supplement,
5 2000, is amended to read:

6 8-234. (1) With the approval of the Director of Banking
7 and Finance, a corporation organized to do business as a trust
8 company under the Nebraska Trust Company Act may establish and
9 maintain branch trust offices within this state and in any other
10 state pursuant to section 8-2303.

11 (2) A corporation organized to do business as a trust
12 company under the Nebraska Trust Company Act, in order to establish
13 a branch trust office in Nebraska pursuant to subsection (1) of
14 this section, shall apply to the Director of Banking and Finance on
15 a form prescribed by the director. Upon receipt of a substantially
16 complete application, the director shall hold a public hearing on
17 the matter if he or she determines, in his or her discretion, that
18 the condition of the corporation organized to do business as a
19 trust company warrants a hearing. If the director determines that
20 the condition of the corporation organized to do business as a
21 trust company does not warrant a hearing, the director shall (a)
22 publish a notice of the filing of the application in a newspaper of
23 general circulation in the county where the proposed branch trust
24 office would be located, the expense of which shall be paid by the
25 corporation organized to do business as a trust company, and (b)
26 give notice of such application for a branch trust office by
27 certified mail to all financial institutions within the county
28 where the proposed branch trust office would be located and to such

1 other interested parties as the director may determine. If the
2 director receives a substantive objection to the proposed branch
3 trust office within fifteen days after publication or mailing of
4 such notice, he or she shall hold a hearing on the application.
5 Notice of a hearing held pursuant to this subsection shall be
6 published for two consecutive weeks in a newspaper of general
7 circulation in the county where the proposed branch trust office
8 would be located, the expense of which shall be paid by the trust
9 company. The date for hearing the application shall not be more
10 than ninety days after the filing of the application and not less
11 than thirty-one days after the last publication of notice of
12 hearing. The costs of the hearing shall be assessed in accordance
13 with the rules and regulations of the Department of Banking and
14 Finance.

15 (3) The director shall approve the application for a
16 branch trust office if he or she finds that (a) the establishment
17 of the branch trust office would not adversely affect the financial
18 condition of the corporation organized to do business as a trust
19 company, (b) there is a need in the community for the branch trust
20 office, and (c) establishment of the branch trust office would be
21 in the public interest.

22 (4) With the approval of the director, a state-chartered
23 bank authorized to conduct a trust business pursuant to sections
24 8-159 to 8-162 may establish and maintain branch trust offices
25 within this state and in any other state pursuant to section
26 8-2303. The procedure for the establishment of any branch trust
27 office under this subsection shall be the same as provided in
28 subsections (2) and (3) of this section. The activities at the

1 branch trust office shall be limited to the activities permitted by
2 the Nebraska Trust Company Act, and the general business of banking
3 shall not be conducted at the branch trust office. Nothing in this
4 subsection is intended to prohibit the establishment of a branch
5 ~~bank~~ pursuant to section 8-157 at which trust business may be
6 conducted.

7 (5) A branch trust office of a corporation organized to
8 do business as a trust company or of a state-chartered bank shall
9 not be closed without the prior written approval of the director.

10 Sec. 6. Section 8-345.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 8-345.02. No building and loan association organized
13 under the provisions of Chapter 8, article 3, shall establish any
14 new ~~detached~~ branch ~~within this state~~ on or after March 26, 1992,
15 except to the extent provided for banks in ~~subsection (2) of~~
16 section 8-157.

17 Sec. 7. Section 8-602, Revised Statutes Supplement,
18 2000, is amended to read:

19 8-602. The Director of Banking and Finance shall charge
20 and collect fees for certain services rendered by the Department of
21 Banking and Finance according to the following schedule:

22 (1) For filing and examining articles of incorporation,
23 association, and bylaws, except cooperative credit associations and
24 credit unions, one hundred dollars, and for cooperative credit
25 associations and credit unions, fifty dollars;

26 (2) For filing and examining an amendment to articles of
27 incorporation, association, and bylaws, except cooperative credit
28 associations and credit unions, fifty dollars, for cooperative

1 credit associations, twenty-five dollars, and for credit unions,
2 fifteen dollars;

3 (3) For issuing to banks, trust companies, building and
4 loan associations, and industrial loan and investment companies a
5 charter, authority, or license to do business in this state, a sum
6 which shall be determined on the basis of one dollar and fifty
7 cents for each one thousand dollars of authorized capital, except
8 that the minimum fee in each case shall be two hundred twenty-five
9 dollars;

10 (4) For issuing to cooperative credit associations a
11 charter, authority, or license to do business in this state,
12 twenty-five dollars;

13 (5) For issuing an executive officer's or loan officer's
14 license, fifty dollars at the time of the initial license and
15 fifteen dollars on or before January 15 each year thereafter,
16 except cooperative credit associations and credit unions for which
17 the fee shall be twenty-five dollars at the time of the initial
18 license and fifteen dollars on or before January 15 each year
19 thereafter;

20 (6) For affixing certificate and seal, five dollars;

21 (7) For making a photostatic copy of instruments,
22 documents, or any other departmental records and for providing a
23 computer-generated document, one dollar and fifty cents per page;

24 (8) For making substitution of securities held by it and
25 issuing a receipt, fifteen dollars;

26 (9) For issuing a certificate of approval to a credit
27 union, ten dollars;

28 (10) For investigating the applications required by

1 sections 8-120, 8-331, and 8-403 and the documents required by
2 sections 8-201, 21-1312, and 21-1313, the cost of such examination,
3 investigation, and inspection, including all legal expenses and the
4 cost of any hearing transcript, with a minimum fee under (a)
5 section 8-120 of two thousand five hundred dollars, (b) section
6 8-331 of two thousand dollars, (c) section 8-403 of two thousand
7 five hundred dollars, and (d) sections 8-201, 21-1312, and 21-1313
8 of one thousand dollars. The department may require the applicant
9 to procure and give a surety bond in such principal amount as the
10 department may determine and conditioned for the payment of the
11 fees provided in this subdivision;

12 (11) For registering a statement of intention to engage
13 in the business of making personal loans pursuant to section 8-816,
14 fifty dollars;

15 (12) To meet the expense of safekeeping securities as
16 provided in section 8-210, the company, national bank, federal
17 savings association, federally chartered trust company,
18 out-of-state trust company authorized under the Interstate Trust
19 Company Office Act, or state-chartered bank shall, at the time of
20 the initial deposit of such securities, pay one dollar and fifty
21 cents for each thousand dollars of securities deposited and a like
22 amount on or before January 15 each year thereafter;

23 (13) For investigating an application to move its
24 location within the city or village limits of its original license
25 or charter for banks, trust companies, building and loan
26 associations, and industrial loan and investment companies, two
27 hundred fifty dollars;

28 (14) For investigating an application for approval to

1 establish or acquire a ~~detached~~ branch bank or to establish a
2 mobile branch pursuant to section 8-157, two hundred fifty dollars;

3 (15) For filing a notice to establish an automatic teller
4 machine, fifteen dollars;

5 (16) For investigating a notice of acquisition of control
6 under subsection (1) of section 8-1502, five hundred dollars;

7 (17) For investigating an application for a
8 cross-industry merger under section 8-1510, five hundred dollars;

9 (18) For investigating an application for a merger of two
10 state banks or a merger of a state bank and a national bank in
11 which the state bank is the surviving entity, five hundred dollars;

12 (19) ~~For investigating an application for a purchase of~~
13 ~~an eligible savings association under section 8-1515, five hundred~~
14 ~~dollars,~~

15 ~~(20)~~ For investigating an application or a notice to
16 establish a branch trust office, five hundred dollars; and

17 ~~(21)~~ (20) For investigating an application or a notice to
18 establish a representative trust office, five hundred dollars.

19 All fees and money collected by or paid to the department
20 under any of the provisions of Chapter 8, 21, or 45 or any other
21 law shall, if and when specifically appropriated by the Legislature
22 during any biennium, constitute the Financial Institution
23 Assessment Cash Fund for the use of the department during any
24 biennium in administering the provisions of such chapters and any
25 duties imposed upon the department by any other law, and all of
26 such money when appropriated shall be appropriated for the purposes
27 expressed in this section.

28 Sec. 8. Section 8-910, Revised Statutes Supplement,

1 2000, is amended to read:

2 8-910. (1) It shall be unlawful, except as provided in
3 this section, for:

4 (a) Any action to be taken that causes any company to
5 become a bank holding company;

6 (b) Any action to be taken that causes a bank to become a
7 subsidiary of a bank holding company;

8 (c) Any bank holding company to acquire direct or
9 indirect ownership or control of any voting shares of any bank if,
10 after such acquisition, such company will directly or indirectly
11 own or control more than twenty-five percent of the voting shares
12 of such bank;

13 (d) Any bank holding company or subsidiary thereof, other
14 than a bank, to acquire all or substantially all of the assets of a
15 bank; or

16 (e) Any bank holding company to merge or consolidate with
17 any other bank holding company.

18 (2) The prohibition set forth in subsection (1) of this
19 section shall not apply if:

20 (a) (i) The bank holding company is registered with the
21 department as of September 29, 1995, as a bank holding company for
22 any bank or banks; or (ii) the bank holding company registers with
23 the department in accordance with the provisions of section 8-913
24 as a bank holding company;

25 (b) The bank holding company does not have a name
26 deceptively similar to an existing unaffiliated bank or bank
27 holding company located in Nebraska;

28 (c) Upon any action referred to in subsection (1) of this

1 section and subject to subsection (3) of this section, the bank or
2 banks so owned or controlled would have deposits in Nebraska in an
3 amount no greater than ~~fourteen~~ twenty-two percent of the total
4 deposits of all banks in Nebraska plus the total deposits, savings
5 accounts, passbook accounts, and shares in savings and loan
6 associations and building and loan associations in Nebraska as
7 determined by the director on the basis of the most recent midyear
8 reports, except as provided in subsections (4) and (5) of this
9 section;

10 (d) The bank holding company is adequately capitalized
11 and adequately managed;

12 (e) The bank holding company complies with sections
13 8-1501 to 8-1505 if the bank or banks to be acquired are chartered
14 in this state under the Nebraska Banking Act; and

15 (f) The bank holding company, if an out-of-state bank
16 holding company, complies with the limitations of section 8-911.

17 (3) If any person, association, partnership, limited
18 liability company, or corporation owns or controls twenty-five
19 percent or more of the voting stock of any bank holding company
20 acquiring a bank and any such person, association, partnership,
21 limited liability company, or corporation owns or controls
22 twenty-five percent or more of the voting stock of any other bank
23 or bank holding company in Nebraska, then the total deposits of
24 such other bank or banks and of all banks in Nebraska owned or
25 controlled by such bank holding company shall be included in the
26 computation of the total deposits of a bank holding company
27 acquiring a bank.

28 (4) A bank or bank holding company which acquires and

1 holds all or substantially all of the voting stock of one newly
2 established bank under sections 8-1512 and 8-1513 shall not have
3 such acquisition count against the limitations set forth in
4 subdivision (2)(c) of this section.

5 (5) A bank holding company which acquired an institution
6 or which formed a bank which acquired an institution under sections
7 8-1506 to 8-1510 or which acquired any assets and liabilities from
8 the Resolution Trust Corporation or the Federal Deposit Insurance
9 Corporation prior to January 1, 1994, shall not have such
10 acquisition or formation count against the limitations set forth in
11 subdivision (2)(c) of this section.

12 Sec. 9. Section 8-1507, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 8-1507. Pursuant to section 8-1506, the Department of
15 Banking and Finance may permit cross-industry acquisition of any
16 failing financial institution or permit acquisition and operation
17 of such financial institution as a bank subsidiary by a bank
18 holding company when the department determines the acquisition of
19 any of the financial institutions is necessary because its capital
20 is impaired, it is conducting its business in an unsafe or
21 unauthorized manner, or it is endangering the interests of
22 depositors or savers. If the acquiring institution is a bank, it
23 may continue to operate such financial institution in its original
24 form notwithstanding its denomination as a bank subsidiary.
25 Acquisitions by any financial institution under sections 8-1506 to
26 8-1510 or section 8-1516 shall be deemed to be of the same nature
27 as an acquisition of a state-chartered bank and shall follow such
28 rules or regulations established by the Director of Banking and

1 Finance for acquisition of state-chartered banks by a bank holding
2 company. The failing institution acquired under this section shall
3 continue to be entitled to establish and maintain such branches as
4 it could have established and maintained if such acquisition had
5 not occurred. Regardless of the date of acquisition of such
6 failing institution or whether the acquired failing institution was
7 state-chartered or federally chartered, the acquired failing
8 institution shall be deemed for purposes of this section to have
9 been permitted to establish and maintain detached branches solely
10 to the extent permitted to state-chartered financial institutions
11 under subsection (2) of section 8-157 or under section 8-345.02 at
12 the time of establishment of a new detached branch.

13 Sec. 10. Section 8-1516, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 8-1516. (1) (a) ~~Except as provided in subsection (2) of~~
16 ~~this section, subsections (4), (5), and (6) of section 8-157, and~~
17 ~~sections 8-1507 and 8-1515, with~~ With the approval of the director,
18 a bank may only acquire another bank in Nebraska as a result of a
19 purchase or merger ~~(i) in any case in which a substantially~~
20 ~~completed application for acquisition or merger has been filed with~~
21 ~~the director prior to April 4, 1996, if (A) the acquired bank has~~
22 ~~been chartered for more than eighteen months and (B) the acquired~~
23 ~~bank and its detached branch banks are converted to detached branch~~
24 ~~banks of the acquiring bank or (ii) in any case in which an~~
25 ~~application for acquisition or merger is filed with the director on~~
26 ~~or after April 4, 1996, if (A) the acquiring bank and the acquired~~
27 ~~bank have each been chartered for more than eighteen months and (B)~~
28 the acquired bank and its detached branch banks branches are

1 converted to ~~detached branch banks~~ branches of the acquiring bank.

2 (b) ~~Except as provided in subsection (2) of this section,~~
3 ~~with~~ With the approval of the director, a financial institution may
4 only acquire another financial institution in Nebraska as a result
5 of a cross-industry merger or acquisition under section 8-1510 ~~(i)~~
6 ~~in any case in which a substantially completed application for such~~
7 ~~cross-industry acquisition or merger has been filed with the~~
8 ~~director prior to April 4, 1996, if (A) the acquired financial~~
9 ~~institution and its detached branches are converted to detached~~
10 ~~branches of the acquiring financial institution and (B) section~~
11 ~~8-1510 has been satisfied or (ii) in any case in which an~~
12 ~~application for such cross-industry acquisition or merger has been~~
13 ~~filed with the director on or after April 4, 1996, if (A) the~~
14 ~~acquiring financial institution and the acquired financial~~
15 ~~institution have each been chartered for more than eighteen months,~~
16 ~~(B) (i) the acquired financial institution and its detached~~
17 ~~branches are converted to detached branches of the acquiring~~
18 ~~financial institution, and (C) (ii) section 8-1510 has been~~
19 ~~satisfied.~~

20 (2) ~~Subdivisions (1)(a)(i), (1)(a)(ii), (1)(b)(i)(A),~~
21 ~~(1)(b)(ii)(A), and (1)(b)(ii)(B) of this section shall not apply to~~
22 ~~any application for merger in which a financial institution has~~
23 ~~been organized to merge with an existing financial institution when~~
24 ~~the acquiring financial institution is at the same location as the~~
25 ~~former existing financial institution following the merger and the~~
26 ~~merger involves a purchase of substantially all of the assets and~~
27 ~~liabilities of the former existing financial institution.~~

28 ~~(3) For purposes of this section:~~

1 (a) Bank means a bank organized under the laws of this
2 state or organized under the laws of the United States to do
3 business in this state; and

4 (b) Financial institution means a bank, savings bank,
5 savings and loan association, building and loan association, trust
6 company, industrial loan and investment company, or credit union,
7 organized under the laws of this state or organized under the laws
8 of the United States to do business in this state.

9 Sec. 11. Section 8-2104, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 8-2104. (1) A Nebraska bank which has been in existence
12 for five years or more may be acquired by and engage in an
13 interstate merger transaction with any out-of-state bank.

14 (2) A bank which is acquired and converted to a branch
15 ~~bank~~ of an out-of-state bank pursuant to an interstate merger
16 transaction shall have all the powers and be subject to the same
17 limitations as any other branch located in this state.

18 (3) An out-of-state bank that has acquired a Nebraska
19 bank under the Interstate Branching By Merger Act of 1997 may
20 maintain and operate the branches of a Nebraska bank with which the
21 out-of-state bank engaged in an interstate merger transaction, and
22 may establish or acquire additional branches in this state, to the
23 same extent that any Nebraska bank may establish or acquire a
24 branch in Nebraska.

25 (4) All branches of an out-of-state bank shall comply
26 with all applicable Nebraska laws and regulations in the conduct of
27 their business in this state to the maximum extent authorized by
28 federal law.

1 Sec. 12. Section 81-1298, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-1298. For purposes of the Microenterprise Development
4 Act:

5 (1) Commercial lending institution means ~~any financial~~
6 ~~institution as defined in subsection (4) of section 8-157~~ a bank,
7 savings bank, building and loan association, or savings and loan
8 association organized under the laws of this state or organized
9 under the laws of the United States to do business in this state;

10 (2) Department means the Department of Economic
11 Development;

12 (3) Microenterprise means any business, whether new or
13 existing, with five or fewer employees and includes startup,
14 home-based, and self-employed businesses;

15 (4) Microloan means any business loan up to twenty-five
16 thousand dollars;

17 (5) Microloan delivery organization means any
18 community-based or nonprofit program which has developed a viable
19 plan for providing training, access to financing, and technical
20 assistance for microenterprises and which meets the criteria and
21 qualifications established for the act;

22 (6) Operating costs means the costs associated with
23 administering a loan or a loan guaranty, administering a revolving
24 loan program, or providing for business training and technical
25 assistance to a microloan recipient;

26 (7) Program means the Microenterprise Partnership
27 Program;

28 (8) Selection process means the procedures adopted by the

1 department, as specified in section 81-12,100 and in collaboration
2 with any statewide microloan delivery organization, by which grant
3 recipients are selected; and

4 (9) Statewide microlending support organization means any
5 community-based or nonprofit organization which has a demonstrated
6 capacity and a plan for providing and administering grants or loans
7 to microloan delivery organizations.

8 Sec. 13. Original sections 8-157, 8-345.02, 8-1507,
9 8-1516, 8-2104, and 81-1298, Reissue Revised Statutes of Nebraska,
10 and sections 8-101, 8-157.01, 8-183.05, 8-234, 8-602, and 8-910,
11 Revised Statutes Supplement, 2000, are repealed.

12 Sec. 14. The following section is outright repealed:
13 Section 8-1515, Reissue Revised Statutes of Nebraska.